FINAL REPORT AND RECOMMENDATION

A New Process for Setting Salary and Benefit Levels for Excluded and Exempt Employees in California State Service

June 29, 2004

State Excluded and Exempt Employees Salary-setting Task Force

DEDICATION

This report is dedicated to the memory of Gary Garnett, supervisory representative from the California Correctional Peace Officers Association and Task Force member, who passed away unexpectedly in June 2004.

AB 2477, Chapter 1044, Statutes of 2002

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19836.1 is added to the Government Code, to read:

19836.1. a) For purposes of this section:
1) *"Excluded employee" means the same as in subdivision (b) of Section 3527.*
2) *"Excluded employee organization" means the same as in subdivision (d) of Section 3527.*
3) *"Exempt employee" means a state employee who is exempt pursuant to subdivision (e), (f) or (g) of Section 4 of Article VII of the California Constitution.*

b) There is in state government the State Excluded and Exempt Employees Salary-setting Task Force, which shall be formed to create a new process to address the status of salary and benefit levels of excluded and exempt employees. The task force shall, prior to July 1, 2004, recommend to the Governor and the Legislature a process that can identify and implement equitable salary and benefit changes over time for excluded and exempt positions in state government.

c) The task force shall consist of no more than 12 participants. Six participants representing state management shall be appointed by the Director of the Department of Personnel Administration and six participants shall be appointed by excluded employee organizations registered with the state. No person may receive compensation for serving as a member except that release time shall be granted by the state for employee organization members who are employed by the State of California. The chair of the task force shall be the Director of the Department of Personnel Administration, or his or her designee.

d) Any process recommended by the task force shall at least include consideration of the following:
1) *The cost of living, as reflected in the Consumer Price Index, the West Coast Index, and other key California statistics from the Bureau of Labor Statistics of the United States Department of Labor, San Francisco and Los Angeles.*
2) *Compensation paid to comparable occupations or benchmark classes in California cities, counties, and special districts, the University of California System, the California State University, the federal government, and the private sector.*
3) *Wages, benefits, and other compensation paid to rank-and-file state employees under approved memoranda of understanding.*
4) *Excluded employee salaries, benefits, and other compensation items.*

e) In preparing its recommendation, the task force shall consider the history of excluded employee salary and benefit changes, the timing of the change in the compensation process, factors affecting excluded employee compensation, and the provisions of the excluded employee compensation package.

f) The State Excluded and Exempt Employees Salary-setting Task Force shall remain in existence until June 30, 2005, and as of that date this section is inoperative. This section is repealed as of January 1, 2006, unless a later enacted statute, enacted on or before January 1, 2006, deletes or extends that date and the task force's existence.

Excluded and Exempt Employees Salary-setting Task Force Members

Diane Just *Chairperson*	Deputy Director, Department of Personnel Administration
Larry Svetich *Vice Chairperson*	Representative, Department of Transportation Supervisors and Corrections Ancillary Staff Supervisors Organization
Cathrina Barros	Vice President, Supervisory, Professional Engineers in California Government
Tim Behrens	President, Association of California State Supervisors
Jim Drysdale	Manager, Administration and Leadership School, EDD University (replaced Patricia Chappie, Employment Development Department)
Rick Field	Supervisory Director, California Association of Highway Patrolmen
Robert Dean	Supervisory Vice President, California Correctional Peace Officers Association (replaced Gary Garnett, Chief, Field Operations Supervisory Division, CCPOA, who passed away in June 2004, and who had replaced Susan Cusak-Bowles, California Correctional Supervisors Association)
Gerald H. Goldberg	Executive Officer, Franchise Tax Board
Tony V. Harris	Acting Director, California Department of Transportation
Tony Hosino	Vice President, California Association of Managers and Supervisors
Ernest VanSant	Chief Deputy Director, Support Services, Department of Corrections (replaced Kathy M. Kinser, Department of Corrections)
Jacqueline Wilson	Deputy Director, Department of General Services
Bruce Brown *Recording Secretary*	Vice President, Motor Vehicle Managers and Supervisors Association

Administrative Steering Committee

Dennis Alexander	Professional Engineers in California Government
Dennis Batchelder	The Batchelder Group and California Association of Managers and Supervisors
Steve Booth	Hughes Svetich Associates
Frank Marr	Department of Personnel Administration
Bonnie Morris	Association of California State Supervisors
Laurie Rhea	Franchise Tax Board
Mitchell C. Semer	Association of California State Supervisors

Key Contributors

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Darlene Moser	Task Force Alternate, Franchise Tax Board
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Patricia Minor	Franchise Tax Board
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FINAL REPORT AND RECOMMENDATION

State Excluded and Exempt Employees Salary-setting Task Force

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Attachments to this Final Report and Recommendation:

- Report of the Current System Study Group
- Report of the Stakeholder Analysis Study Group
- Report of the Strengths and Weaknesses Study Group
- Report of the Marketplace Comparison Study Group
- Evaluation Plan and Summary

EXECUTIVE SUMMARY OF THE FINAL REPORT

RECOMMENDATION OF A NEW PROCESS FOR SETTING SALARY AND BENEFIT LEVELS FOR EXCLUDED AND EXEMPT EMPLOYEES IN CALIFORNIA STATE SERVICE

In 2002, the State Excluded and Exempt Employees Salary-setting Task Force was mandated by passage of Assembly Bill 2477, authored by Assemblyman Darrell Steinberg (D-Sacramento), which was approved by the Legislature and signed by the Governor on Sept. 28, 2002. The legislation established a partnership between the Department of Personnel Administration and state excluded employee organizations with a singular purpose: create a new process to identify and implement equitable salary and benefit changes over time for excluded and exempt positions in state government. The Task Force was charged with preparing and submitting a report of its findings and recommendations to the Legislature and the Governor prior to July 1, 2004.

The Task Force has concluded that the current process for establishing compensation for excluded and exempt employees of the State of California is seriously flawed and needs to be changed. The Task Force envisions a process in the future that will depend on reliable, objective, comparative and economic data to ensure that the state is competitive with its government counterparts at the federal, state and local levels. Of the alternatives considered, establishment of a separate advisory commission would most effectively incorporate the values the Task Force adopted. The Task Force recommends:

- The formation of an advisory compensation commission to receive and evaluate comparative and economic data and annually make recommendations to the Legislature and Governor regarding adjustments in salaries and benefits for excluded and exempt employees.
- That the new process be implemented such that the timing of proposed changes in compensation would be regular, consistent and dependable.
- The State of California take immediate steps to alleviate the impact of salary compaction associated with the degree of salary separation between supervisory employees and their rank-and-file subordinates.

FINAL REPORT

A New Process for Setting Salary and Benefit Levels for Excluded and Exempt Employees in California State Service

MANDATE OF THE TASK FORCE

In 2002, the State Excluded and Exempt Employees Salary-setting Task Force was mandated by passage of Assembly Bill 2477, authored by Assemblyman Darrell Steinberg (D-Sacramento), which was approved by the Legislature and signed by the governor on Sept. 28, 2002. The legislation established a partnership between the Department of Personnel Administration and state excluded employee organizations with a singular purpose: create a new process to identify and implement equitable salary and benefit changes over time for excluded and exempt positions in state government.

In passing AB 2477, the Legislature and the governor acknowledged that the current system for setting salary and benefit levels for state managers, supervisors, exempt and confidential employees is not working; therefore, it was their intent to have a Task Force explore alternative methods for determining appropriate levels of salary and benefits for state excluded and exempt employees and recommend an equitable and workable process.

The legislation directed DPA to convene a 12-member Task Force comprised of six DPA-appointed members and six members appointed by state-registered organizations representing excluded employees in state service. Chairperson of the Task Force was to be the DPA director or his designee. Task Force members received no compensation for serving.

Legislation requires that the recommended process be submitted to the governor and the Legislature prior to July 1, 2004.

The State Workforce. *Of 219,000 employees in state government, the salaries and benefits of 178,000 are negotiated as a part of the collective bargaining process. The remaining employees are excluded, exempt or unrepresented, and other processes are used to determine compensation for those employees.*

Excluded Employees *are civil service managerial, supervisory and confidential employees of the executive branch who are excluded by law from the collective bargaining process. There are approximately 29,000 excluded employees in state government comprising 16 percent of the state workforce.*

Exempt Employees *are non-civil service appointees of the governor and other constitutional officers who are excluded from collective bargaining. There are approximately 1,000 exempt employees in state government, representing a very small percentage of the total state workforce.*

SCOPE OF THE MANDATE

Any process recommended by the Task Force must include consideration of the following: the cost of living as reflected in specified indices; compensation paid to comparable occupations or benchmark classes in California cities, counties, special districts, the University of California and California State University systems, the federal government and the private sector; wages, benefits and other compensation paid to rank-and-file state employees under approved memoranda of understanding; and excluded employee salaries, benefits and other compensation items.

The Task Force also was required to consider the history of excluded employee salary and benefit changes, the timing of the change in the compensation process, factors affecting excluded employee compensation, and all provisions of the excluded employee compensation package.

Legislation establishing the Task Force specifically limited its responsibilities to creating a process that addresses compensation and benefits for excluded and exempt state employees. The responsibilities of the Task Force do not include making recommendations in the areas of exclusivity in representation, employee rights, or terms and conditions of employment (other than compensation and benefits) for excluded and exempt state employees.

Other major issues that impact excluded and exempt employees but are outside the scope of this Task Force include an unnecessarily complicated classification system, the designation of positions as “hourly wage” or “salaried” that impact the opportunity of managers and supervisors to receive overtime compensation, and the absence of a reliable and consistent method for rewarding managers and supervisors for superior service and performance. Resolving these problems is beyond the mandate of AB 2477, but it is the Task Force’s desire that these issues be addressed by the state in the near future.

Other issues: unnecessarily complicated classification system, job designations that impact managers and supervisors’ opportunities to receive overtime compensation, and the absence of a reliable and consistent method for rewarding superior service and performance.

PROCESS OF THE TASK FORCE

Monthly meetings were held by the Task Force beginning March 2003, and a Web site was created where all meeting notices, minutes, research, reports and other materials were posted for the public to review. Meetings were open and public input was solicited and welcomed.

First thing the Task Force needed was a carefully considered and concise Statement of Values from which to base its efforts, evaluate the current salary-setting system, measure other models and assess components necessary for a new process. The following values, adopted unanimously by Task Force members, are considered vital in establishing the foundation for the proposed salary-setting process.

Statement of Values

1. ***Integrity*** **– The process will exhibit integrity and withstand scrutiny.**
2. ***Reliability*** **– The process will provide a reliable and consistent method for setting salaries and benefits.**
3. ***Recruit and Retain*** **– The process will enhance the ability of the state to recruit and retain qualified excluded and exempt employees.**
4. ***Flexibility*** **– The process will provide flexibility in setting salaries and benefits.**
5. ***Recognize Differences*** **– The process will acknowledge differences among excluded and exempt employees as well as differences between excluded/exempt employees and rank-and-file employees.**

The Task Force commissioned an Administrative Steering Committee (ASC), which performed necessary background work including research, survey preparation, outreach efforts, marketplace reviews and comparisons, and other staff responsibilities. The ASC formed four separate study groups, comprised of Task Force and ASC members, to investigate targeted areas of concern. Study group members recruited key personnel to help them conduct research, develop and compile draft materials, and prepare and present information to the Task Force for consideration.

In developing their findings and recommendations, the Task Force carefully considered both staff and public input, all of which are included in this report.

The Task Force considered both staff and public input for this report.

Study groups

The four study groups and their targeted areas of concern are:

Current System – The focus of the current system group was to investigate and describe California's current system and processes for setting salary and benefit levels for excluded and exempt state employees and to provide a historical overview of how those processes evolved.

Stakeholders – Focus of this group was to provide the Task Force with an assessment of the wants and needs of various stakeholder groups that have an interest in, and may be affected by, the current and future salary-setting processes.

Marketplace Comparison – This group investigated and assessed current trends in salary-setting processes in the public sector with special consideration for competing entities in local, state and federal governments.

Evaluation – This group was responsible for bringing together much of the data generated by the Task Force and the other groups. This group developed an analysis of the strengths and weaknesses of the current system, refined the values and characteristics used to evaluate the current system, and developed a process to evaluate alternative salary-setting recommendations.

CALIFORNIA'S CURRENT SYSTEM

Existing law requires DPA to establish and adjust salary ranges for each classification in state civil service subject to any state Constitutional merit limits. It also requires that salary ranges be based on the principle that like salaries shall be paid for comparable duties and responsibilities, and directs DPA to consider prevailing rates for comparable service in other public employment and private business before establishing or changing the salary ranges. Though the law requires this, in practice the process does not work for excluded and exempt employees in state service.

Complete Current System Report is included with this report.

Task Force members agree that the current system is seriously flawed. It does not meet the needs of state government or the needs of the state's excluded and exempt employees, and does not serve the public by ensuring that the state can continue to recruit and retain qualified, dedicated and committed employees in leadership positions for career employment.

The Little Hoover Commission is in the process of examining the state management workforce and has called for reforms to the state's personnel system "to improve the ability of public agencies to recruit, train and manage a workforce needed to transform good policy into good programs."

The process is viewed by stakeholders as being implemented in an inconsistent manner primarily behind closed doors. They also believe that neither the public nor the affected employees have any real input or impact on the compensation decisions being made or implemented for state excluded and exempt employees.

Salary-setting prior to 1982

Prior to implementation of collective bargaining in 1982 for all state civil service rank-and-file employees, salary ranges and benefits for all workers employed by the State of California were established through a number of processes:

a) The Legislature annually determined salaries for elected state officers.
b) The Department of Finance set salaries for most positions exempt from state civil service (normally appointees of elected officials).
c) The State Personnel Board (SPB) set salaries for all state

civil service employees as well as adjusting salaries for judges based upon salary ranges for state civil service.

d) The University of California and California State University set salaries for employees in their respective systems.

The SPB relied on three basic principles to set salary ranges for all civil service employees:

Outside data: Consideration was given to prevailing rates for comparable service in other public employment, but especially in private industry.

The SPB annually surveyed approximately 700 private businesses in the Los Angeles and San Francisco areas, as well as some larger metropolitan and non-metropolitan public jurisdictions in the state. Data was collected for about 70 entry-level and journey-level benchmark jobs in private industry and a number of additional jobs unique to government. But this information was for rank-and-file positions only. Supervisory and managerial jobs were not included in the salary surveys because of distinct organizational differences. Therefore, salary ranges for supervisory and managerial jobs were based largely on internal relationships with state classifications in the occupational field.

Internal relationships: Like salaries were paid for comparable duties and responsibilities.

State jobs were grouped into classifications, and classifications into occupational groups (e.g., law enforcement, public health or clerical). Each occupational group included rank-and-file workers, supervisors and managerial employees. As a general philosophy, the state tried to maintain a minimum 10 percent salary differential between classifications within promotional lines (e.g., journey level to first supervisory level to second supervisory level, etc.) and to maintain salary parity between similar classifications with the same level of responsibility. Prior to collective bargaining, supervisory classifications were sometimes paid 15-20 percent above their highest paid subordinates. Differentials between classifications tended to narrow as more supervisory and managerial levels were created, limiting the room for differentials within many series.

Salaries for the highest level managerial classifications in civil service often were subject to "compaction." Generally, salaries of exempt employees created salary ceilings in certain civil service salary ranges. Lesser increases provided to exempt positions caused certain managerial classi-

When salary separation is reduced, it results in salary "compaction." See page 15 for a full description of salary compaction as it applies to state government.

fications to move close to, or in some cases even exceed, salaries of exempt employees in order to provide appropriate differentials over subordinate civil service classifications. Consequently, salary ranges of state civil service managerial classifications were curtailed so they would not exceed or unduly approach the salaries of exempt managerial positions, which had a specific legal ceiling.

Funding: The costs of salary adjustments could not exceed existing appropriations available for salary increase proposals. The salary-setting process and funding was essentially a three-step process:

Step 1: The SPB conducted salary surveys in the spring, followed by public hearings and discussions with employee organizations. The lag between salaries of civil service employees and those of private industry and public agency workers was identified using the survey data and information from public hearings. The lead and lag data were analyzed and the SPB calculated the amount of funding needed to provide recommended compensation adjustments for all state employees.

Step 2: Based on these calculations, the SPB prepared a report to the governor and Legislature in December each year recommending the level of salary increases and funding needed. The Legislature appropriated funding for employee compensation through the Annual Budget Act.

Step 3: Survey data was rechecked in the spring to confirm or adjust the salary funding recommendations. Within the amount of funding appropriated by the Legislature and approved by the governor, the SPB would adjust rank-and-file, managerial, supervisory and exempt employees' salaries, which became effective each July 1.

Salary-setting today

Following implementation of collective bargaining, DPA assumed, with very little change in the written policy, the responsibility from the SPB for setting salaries and benefits for excluded and exempt employees in state service. The legislation that gave DPA this authority was subject only to a limited obligation to "meet and confer." It did not require DPA to reach an accord with the representative organizations.

Over the past 22 years, however, determining salaries has changed considerably from the pre-collective bargaining era. Today, the following processes are in place:

a) Salaries of elected officials are established by the California Citizens Compensation Commission. This commission and its governance process were enacted by voters through a ballot measure passed in 1990 known as Proposition 112.

b) Salaries of exempt and excluded employees are set by DPA, which also sets salaries for judges (i.e., judges receive the same general salary increase percentage as civil service rank-and-file employees).

c) Salary ranges for rank-and-file state employees are subject to collective bargaining by each of 21 individual bargaining units.

d) UC and CSU systems continue to set salary ranges for their own employees.

See the Current System Report, Appendix B, for a fact sheet on the California Citizens Compensation Commission.

In a presentation to the Task Force, a DPA official said that today the department tries to consider the following four basic factors when setting salaries for excluded and exempt state employees:

- Employee organization input after collective bargaining
- Internal relationships after collective bargaining
- Outside data after implementation of collective bargaining
- Salary-setting and funding for state excluded employees after implementation of collective bargaining

Employee organization input after collective bargaining: The Bill of Rights for State Excluded Employees (Government Code Section 3525 et seq.) extends limited meet and confer rights, which are essentially consultative, to employee organizations that represent excluded employees in state service. There are 19 such organizations registered with the state.

See the Current System Report, Appendix D, for the entire text of the Bill of Rights for State Excluded Employees (GC 3525 et seq).

Limited meet and confer rights addressed in recent lawsuit

GC 3533 provides that DPA must meet and confer with the organizations, but consider only "as fully as the employer deems reasonable" the information or concerns presented in the meetings. Limitations of this supervisory meet and confer process are apparent from the judge's published ruling in a recent court decision. The basic issue of the case was whether or not the state failed to meet and confer in compliance with the law when it rescinded an announced salary increase for excluded employees before the excluded employee organization (that filed the lawsuit) fully presented its position regarding the salary program.

The court case: PECG et al vs State. Case No. 03CS00918 and 03CS00994.

The judge rules

In its ruling, the court found that the state did not violate the law because it did meet with the employee organization filing the case. However, the judge stated in his ruling that the law provides that the supervisory organizations may make "presentations" and that "because of the vagueness of that language, the employer could deem it reasonable to have a five-minute conversation in the hallway." The ruling went on to state that "... The statute presents a huge conundrum. ... It's vague. There aren't any definitions. It uses generic terms without telling us what they mean and it appears to give the employer ultimate discretion in this area, and I think if you're going to address it, you need to address it with the appellate court or the Legislature."

System is not responsive to employer or employee needs

Most excluded employee organizations agree that the state lacks responsiveness in the current process of meeting and conferring because it is not required to respond but only to consider "as fully as the employer deems reasonable" the presentations and concerns of the representative organizations. The strong feelings expressed by excluded employee representative organizations, excluded employees themselves, and state department management is that the current process is not responsive to the needs of the state, as employer, or its excluded employees.

"... you need to address it with the appellate court or the Legislature."

<u>Internal relationships after collective bargaining</u>:
A DPA official recently testified at a Task Force meeting that she believed supervisory and managerial employees should be paid a minimum of 10 percent over their subordinates. However, independent negotiations of the bargaining units have consistently led to termination of historical salary ties to other classifications and the elimination of traditional salary formulas.

Because salary increases routinely are no longer provided to occupational groups as a whole, traditional salary relationships between similar classifications and classes in a promotional line are nonexistent. Further, creativity by contract negotiators and flexibility in the negotiation process have allowed the establishment and extensive use of numerous pay differentials and other additional forms of compensation (e.g., seniority or longevity pay, geographic pay, educational pay, etc.). These "add on" pay differentials can and often do apply to the majority of rank-and-file employees in a bargaining unit but not to their managers or supervisors.

While DPA still attempts to maintain a minimum 10 percent salary separation between managers and supervisors and those they supervise, there is nothing written in state policy or codified in law that compels the state to adhere to this, or any, differential. Consequently, the problem of salary compaction is widespread between rank-and-file employees and their superiors. Often, compaction occurs in a domino effect up the line (rank-and-file to supervisor to manager). When salary ranges, pay differentials, regular overtime and other pay incentives are tallied up, it is not uncommon to find supervisors whose salaries not only do not meet the minimum 10 percent salary separation, but who are paid the same or less than their immediate subordinates.

<u>Outside data after implementation of collective bargaining</u>:
Government Code Section 19826 requires DPA to conduct an annual salary survey and submit a report to the parties meeting and conferring and the Legislature by Jan. 10 of each year. The report is to contain the department's findings relative to salaries of employees in comparable occupations in private industry and other governmental agencies. Unlike the extensive salary data collection effort conducted by the SPB before 1982, DPA's effort to compare compensation paid to state employees is minimal. Salary survey responsibilities are vested in a single position. Governmental data is obtained by mail, telephone or electronic communication. Benchmark data from the private sector is extracted from published surveys purchased by DPA. Lead and lag information is not calculated from the data collected. Field audits are not conducted and survey data is not validated.

See the Current System Report, Appendix A, for the complete text of GC Section 19826.

<u>Salary-setting and funding for state excluded employees after implementation of collective bargaining</u>:
Prior to opening collective bargaining negotiations for rank-and-file, DPA solicits proposals from state agencies regarding salary levels, benefits and other terms and conditions of employment for rank-and-file and excluded employees. But DPA makes no determination of salary or benefit levels for excluded employees until the state has concluded negotiations with a bargaining unit. At that time, DPA conducts a compensation impact analysis on excluded classifications affiliated with the unit and identifies the adjustments necessary to maintain appropriate differentials between classifications of managerial and supervisory employees and related rank-and-file classifications.

A DPA official said that the department cannot conduct an impact analysis until rank-and-file adjustments are known; therefore, excluded employees are always an “afterthought” rather than DPA pointedly attempting to provide reasonable and warranted salary and benefit adjustments for the state’s management team. After many years of collective bargaining agreements that contain special pay adjustments and differentials for state rank-and-file employees, the 10 percent salary relationship guideline is simply not consistently maintained by a majority of managerial and supervisory employees over their subordinates.

WHO ARE THE STAKEHOLDERS WHO WILL BE AFFECTED BY A NEW SALARY-SETTING PROCESS?

Task Force members asked: Who are the stakeholders who have an interest in a new salary-setting process and what are their wants and needs? The stakeholder analysis study group identified three types, or categories, of stakeholders:

Complete Stakeholders Analysis Report and survey included with this report.

Direct stakeholders: Individuals, groups, organizations or other entities directly affected economically and/or procedurally by the current process and the one being developed by the Task Force. Excluded and exempt state employees, operating state departments, state control agencies and employee organizations were identified as the most prominent direct stakeholders.

Indirect stakeholders: Individuals, groups, organizations or other entities that are not directly affected by the process or its implementation, but who may be affected economically and/or procedurally on a secondary or indirect level. These include the Legislature, California Public Employees Retirement System, rank-and-file state employee organizations and the State Controller’s Office.

Peripheral stakeholders: Individuals, groups, organizations or other entities not viewed as being affected by the process or its implementation, but who may have a political, economic or philosophical interest in the process or the resultant changes to the current system.

Survey results provide valuable, broad-based ideas

This study group developed a survey that was approved by the Task Force and distributed by mail to senior staff and human resources professionals in the state operating departments, to identified representatives in specific “control agencies” in state government, and to state-registered organizations representing excluded and exempt state employees. The survey also was placed in the Task Force's section on DPA's Web site for excluded and exempt state employees to access directly.

Through the survey process, the study group obtained stakeholder input regarding their perceptions of the current salary- and benefit-setting system's strength and weaknesses, as well as their ideas as to what components should be included in a replacement process. The survey solicited reaction to specific characteristics that might be included in a new salary-setting process, the results of which are organized into five thematic categories:

– Marketplace competitiveness
– Internal equity
– Compensation options
– Operational considerations
– System considerations

Within a six-week period, ending Aug. 4, 2003, the study group received 3,476 survey responses, from which the five most important characteristics to be included in a new salary-setting process were determined. The process should:

In a six-week period, 3,476 survey responses were received.

1. Incorporate cost-of-living adjustments in employee salaries.
2. Maintain marketplace competitiveness with other like employers in terms of salaries.
3. Address (and relieve, as appropriate) compaction between supervisory and nonsupervisory job classifications.
4. Maintain marketplace competitiveness with other like employers in terms of benefits.
5. Provide for salary and benefit security (protect established salary/benefits in the future).

Other elements survey respondents considered "important" in developing the new process included:

• Making available nontraditional compensation components (e.g., flexible work schedules, time off, leave sellback, on-site conveniences, etc.).
• Providing compensation options different from those provided to rank-and-file employees.
• Incorporating employee involvement in establishing benefit provisions.
• Incorporating salary ranges that are equitable across the organization and across occupational groups.

- Incorporating monetary and nonmonetary forms of compensation.
- Including longevity (or seniority-based) provisions.
- Recognizing organizational status and responsibility within the workforce.
- Considering value of employee's contributions to department or program(s).
- Incorporating performance-based incentives (bonuses) in addition to base pay provisions.

Human resources focus group

In addition to analysis of the survey data, a group of human resources professionals from several state departments participated in a focus group resulting in their developing a list of eight "highest priority characteristics." Their list nearly mirrors the overall responses from all input sources, though not all are in the same order of importance.

Just as with the stakeholder responses, the characteristics cited by this focus group as important were directly tied to the core values the Task Force identified as being vital for any new salary-setting process, including the ability to recruit and retain qualified employees (competitiveness in the marketplace), reliability (cost of living adjustments and salary protections), and recognition of differences (nontraditional forms of compensation and different forms of compensation from rank and file.)

Stakeholders target values for new process

Anecdotes from primary stakeholders, Task Force members, human resources practitioners and excluded employee organizations reveal that none of them believe the current salary-setting system exhibits the types of characteristics they hold in high regard and, therefore, it is not meeting their needs.

In addition to the quantitative data gathered about specified characteristics, the survey asked respondents, "What type of process or method would you advocate being used to set salaries and benefits for excluded and exempt state employees?" Of the 1,861 comments received, the most common (919 respondents) answer was, "Comparison with private and other governmental agencies."

Most survey respondents advocate comparing California salaries and benefits to other government and private entities.

After carefully analyzing survey data, the study group concluded that responding stakeholders were focused and consistent in their desire to incorporate the very same values and ideas being independently developed by the Task Force.

STRENGTHS AND WEAKNESSES OF THE STATE'S CURRENT SYSTEM

In order to competently and completely assess the strengths and weaknesses in the state's current salary-setting system, the Task Force needed a value base from which to measure the current process and a benchmark from which it would evaluate all potential new processes. In September 2003, Task Force members adopted the following core values that are deemed vital for effectively determining any new salary-setting process.

Complete Strengths and Weaknesses Report included with this report.

Statement of Values

1. ***Integrity* – The process will exhibit integrity and withstand scrutiny.**
2. ***Reliability* – The process will provide a reliable and consistent method for setting salaries and benefits.**
3. ***Recruit and Retain* – The process will enhance the ability of the state to recruit and retain qualified excluded and exempt employees.**
4. ***Flexibility* – The process will provide flexibility in setting salaries and benefits.**
5. ***Recognize Differences* – The process will acknowledge differences among excluded and exempt employees as well as differences between excluded/exempt employees and rank-and-file employees.**

Incorporating these values in any new salary-setting process for the state's excluded and exempt employees is vital as determined by the Task Force.

The evaluation study group was tasked with conducting an analysis of the strengths and weaknesses of the current system, refining the values and characteristics that will be incorporated in the new process, identifying the evaluation criteria and building a model for evaluating alternatives, and finally applying the evaluation model to the alternatives for the recommended process.

Analysis of the current system's strengths and weaknesses considered input from multiple sources: the Task Force, the public, documentation of the current system, and stakeholder survey responses. Data from the input sources were analyzed individually, then combined and linked with the Statement of Values, above. By linking the data to the values necessary for the recommended system, the Task Force ensures that both strengths and weaknesses identified in the current system are addressed in the final recommendation.

Strengths of the current system

Although there were few perceived strengths identified in the current system, half of the strengths identified could be linked to the value of flexibility (Value #4). Respondents in the stakeholders survey perceive flexibility as the current system's greatest strength, although numerous responses to that survey's question regarding strengths of the current system included references to specific components of compensation. The Task Force did not identify overall compensation as a strength of the current system, nor was this an obvious conclusion derived from the Current System Study Report.

Two specific perceived strengths of the current system were identified:

- The system provides a sense of flexibility in that it can move quickly and can be sensitive to fiscal crises.
- The system considers input from multiple sources (i.e., salary surveys).

Weaknesses of the current system

One significant finding was that over half of the stakeholders who responded to the survey stated they could not cite a single strength of the current system. Stakeholders and Task Force members identified almost twice as many weaknesses of the current system as they did strengths, citing the lack of integrity (Value #1) and reliability (Value #2) as the greatest weaknesses.

The overwhelming majority of survey respondents were state managers and supervisors, and over half of them wrote that they could not cite a single strength of the current system.

Most notable among the serious shortcomings of the current system are:

- A severe compaction of salary separation between first-line supervisors and rank-and-file employees
- The lack of competitive compensation packages and
- The absence of a clearly defined and documented process.

Reductions of salary separations has resulted in severe cases of compaction. Salary compaction is prevalent in many classifications, even resulting in inverted supervisor-to-employee salary relationships in some situations. The absence of a standard, or defined, process or remedy compounds the problem of salary compaction.

The issue of noncompetitive salary packages has led to a perception that the state is unable to successfully recruit and retain supervisory and managerial employees from outside state service. Noncompetitive salaries also have acted as a disincentive for qualified rank-and-file employees, who would be attractive as promotional candidates, to consider moving into supervisory and managerial classifications.

A lack of documentation detailing the current process for setting salary and benefit levels for excluded and exempt employees has led to an undefined system that is not understandable to stakeholders. This has resulted in the perception by stakeholders that the system lacks integrity (Value #1) and is not reliable (Value #2).

After considering data from all three input streams – responses to the stakeholder survey, analysis of the current system, and input from the Task Force and public in brainstorming and synthesis exercises, it is evident that frustration with certain components of the salary-setting system far outweigh the appreciation of its benefits. The significant number of identified weaknesses coupled with the high number of stakeholders who were unable to identify even a single strength suggest that the current salary-setting system should be changed to better serve affected state employees, state government and the citizens of California.

SALARY COMPACTION: THE MOST CRITICAL IMPACT

Reduction of salary separation results in salary compaction.

The issue of salary compaction is one of the most critical impacts in the current salary-setting system. Salary compaction is a reduction of the difference in base salary between two classifications having a typical superior-subordinate reporting relationship. Compaction may result from salary adjustments that are restricted by statutory salary ceilings (which preclude movement of higher-level class salaries), a lack of available funds, or across-the-board “flat dollar” salary increases rather than percentage increases. An additional problem is the absence of a defined process or remedy for situations of severe compaction.

Today, the state’s system of “total compensation” has become exceedingly complex and includes many “add on pays” to base salary, such as recruitment, seniority or education pay. Consequently, the term “compaction” is used generically to mean that the difference between the total compensation paid to classifications in a superior-subordinate relationship has eroded over the intended percentage difference (e.g., 10 percent or more) and, in a number of classifications, has resulted in inverted supervisor-to-employee salary relationships.

Analysis from the Marketplace Survey determined that 85 percent of respondents indicated their organization maintains or attempts to maintain a minimum 10 percent pay differential between first-line supervisors and their rank-and-file subordinates, and a majority of those maintain or attempt to maintain a 20 percent difference or more. **The State of California has not formally established a target differential nor a method to guarantee one, thereby exacerbating the salary compaction issue.**

Many rank-and-file employees have come to recognize that promoting to supervisor and above doesn't always bring with it the expected pay and benefit increases. These employees are more often questioning whether it is worth it to accept more responsibility, increased liability and stress, additional demands on their time and talent and, in many cases, no overtime pay, for only a minimal difference in total compensation. Because of the compaction problem, some qualified and deserving employees are choosing not to step into leadership roles, thereby depriving the state – and the public – of creative and dedicated leadership. Moreover, some competent supervisors whose salaries and/or benefits have degraded have chosen to demote back into rank-and-file status to increase their salaries and decrease their stress, responsibilities, liabilities and unpaid overtime.

Many employees are questioning whether it is worth it to accept more responsibility, liability and stress, additional demands on their time and talent and, in many cases no overtime pay, for only a minimal difference in total compensation.

Prior to implementation of collective bargaining in state service, salaries were adjusted for entire occupational groups: rank-and-file, supervisory and managerial employees in the class. Salary adjustments by occupational group effectively prevented compaction from occurring. When compaction did occur, it could be readily identified and corrected through special salary adjustments in the current or future salary programs, thereby retaining qualified administrators.

Under the current salary-setting process, compensation for rank-and-file is negotiated without regard to the impact on higher-level classifications. The impact of negotiated compensation on higher-level classes is typically determined only after the unit's collective bargaining negotiations are complete. At that time, it is often difficult or impossible to determine the impact on the higher-level classifications and then make appropriate adjustments because of a lack of appropriated funds and/or defined compensation ceilings.

Two critical questions in establishing total compensation are:

1. At what point does the salary separation between superior-subordinate compensation become a problem?
2. How can the excluded and exempt employee salary-setting process address the problem?

The answers are not easy, but they must be found and the problems corrected.

Salary compaction causes inverted relationships

The following are actual examples of severe compaction that have occurred since collective bargaining was implemented in California state service.

In today's career climate, severe compaction hurts the state's ability to attract, maintain and motivate the best and brightest leaders.

Example 1 – Occupational Class MM:

> The difference in base salary between the rank-and-file and supervisory classifications in Class MM historically had been maintained at approximately 10 percent (roughly $500 a month).
>
> When court decisions mandated an improvement in the rank-and-file compensation to enhance recruitment and retention (R&R) of personnel, an $800 R&R for rank-and-file employees in the class was established through collective bargaining. However, because of limited available funds, only $400 was established for the supervisory class, effectively reducing the 10 percent salary difference to 1-1/2 percent, or $83 per month.
>
> Complicating this compaction problem was the fact that the R&R was provided only for employees working in the field, which included most rank-and-file employees. Their supervisors who were assigned to headquarters did not receive the $400 R&R pay, thus further reducing the differential. Also, because they are in field facilities performing special duties, many Class MM rank-and-file employees qualified for a higher base salary range.
>
> When all these factors were applied, the worst-case scenario results in the rank-and-file employees' compensation exceeding supervisors' compensation by more than 15 percent (almost $800 a month).

Example 2 – Occupational Class DD:

> Originally, the base salary for the rank-and-file Classification DD was 15 percent below the base salary of the first-line supervisory class in the series. The negotiation of

work schedules during collective bargaining resulted in a 5 percent salary increase for the rank-and-file class but salaries in the supervisory classifications remained the same. Consequently, the base salary differential between the two classes was reduced to less than 10 percent.

Those same collective bargaining negotiations also changed some of the "add on pays" provided to rank-and-file, including seniority pay (additional 1 percent) and educational pay (changed from $100 monthly to a percentage of base salary guaranteeing further increases in future years). Neither seniority pay nor educational pay were enhanced for supervisory employees. Also, under the personal leave program for excluded employees, the compensation provided to the supervisory class was reduced 5 percent in exchange for a day of leave; the rank-and-file class did not participate in the personal leave program, therefore their salaries were not reduced.

Combining all these factors, effective July 1, 2004, the compensation difference between the two classifications in Class DD will be reduced to 7 percent (about $377 per month). Additionally, the opportunity for overtime compensation is significantly greater for employees in the rank-and-file class than those in the supervisory class, making it common for the monthly total compensation of Class DD rank-and-file employees to far exceed total compensation of the supervisory class.

MARKETPLACE COMPARISONS

The marketplace study group attempted to determine what processes employers in the public sector are utilizing to determine total compensation packages for supervisory and managerial employees.

The study group devised a survey questionnaire that was sent to representatives in 49 states – California was excluded – the 20 largest counties and seven of the largest cities in California. In addition, representatives of the U.S. Postal Service and the federal government's Office of Personnel Management were contacted by telephone. The private sector was excluded from this effort for a number of reasons including the probability that much of the salary-setting information would be proprietary and the short time frame required for receipt of the information likely would preclude adequate responses.

The private sector was excluded from the survey.

Of 76 survey questionnaires distributed, 30 were completed and returned: 10 from cities and counties and 20 from other states. In addition to these responses, the study group reviewed a comprehensive study completed by the state of Washington in 2002, which determined that their current system was sorely outdated and ultimately resulted in a complete overhaul of every sector of that state's Human Resources Division including classification structure, compensation, recruitment, retention and collective bargaining.

The Washington state report summary is included as Attachment 4 in the Marketplace Comparison Report .

Washington's compensation concerns were similar to those of California: low salaries, lack of cost-of-living-adjustments, inflexibility prohibiting the ability to compensate strong performers or those with special skills, narrow pay ranges and step increases based exclusively on longevity.

Data from this study was especially valuable because it was gathered from numerous public and private employers nationwide. The study determined that many states are moving to some form of variable pay in addition to their base salary programs, at least for managers, with the most common options being lump-sum merit pay, team incentives, skill or knowledge pay, and annual bonuses.

Many states are offering managers base salary plus lump-sum merit pay, team incentives, skill or knowledge pay, and annual bonuses.

Analyzing marketplace data

Complete Marketplace Comparison Study and survey included with this report.

Study group members and professional research analysts with the State Franchise Tax Board reviewed survey responses and quantified the data to determine if any particular response(s) merited special consideration or further action. Staff followed up with telephone calls to a number of employer representatives to clarify information and ascertain if additional data would be helpful. These efforts identified several key similarities in the employers' priorities:

- In analyzing respondents' efforts at maintaining adequate salary differentials between managers and supervisors and their rank-and-file subordinates, most employers reportedly make serious attempts to maintain at least a 10 percent differential, with many survey respondents revealing they maintain a separation of 20 percent or more.
- Most employers utilize economic indices (e.g., consumer price index) or a prevailing wage survey as tools for determining salary and benefit increases for their supervisory and managerial employees.
- Most employers include base salary, other forms of "pay," and performance bonuses as compensation for supervisory and managerial employees.
- Approximately 20 percent of the employers consider pay-for-performance, special differentials (hazardous duty, night

shift, management differential) and/or benefit replacement pay for certain supervisory and managerial employees.

- Most employers include health insurance, retirement benefits, deferred compensation, life insurance, and "leave" as general benefit compensation for supervisory and managerial employees.
- All employers provide some form of retirement and deferred compensation. Two-thirds (19 of 30) provide matching funds toward employees' retirement plan, and nearly half (14 of 30) do so for voluntary deferred compensation plans.

Many survey respondents indicated that collective bargaining drives their salary- and benefit-setting processes for all employees. In fact, 21 of the 30 respondents indicated they had some form of collective bargaining for their employees. Specifically, 10 of the 21 respondents are "local" jurisdictions in California and are covered by Government Code Section 3500 et seq, known as the Meyers-Milias-Brown Act (MMBA), enacted in 1968. The MMBA subjects all cities, counties and special districts to collective bargaining for all classes of employees, including supervisory and management, with the only exception being "appointing authorities." Additionally, supervisors in three of the responding states and managers in one responding state are covered by collective bargaining.

The federal government uses extensive data collection via comparative surveys throughout their system and with various employers in both the public and private sectors to justify salary or benefit increases for supervisory and management personnel. However, all increases are dependent on available monies, of course, and are directly impacted by political considerations.

VISION OF THE FUTURE SALARY-SETTING SYSTEM

Many factors are contributing to the changing structure of California state government: an ongoing fiscal crisis; Gov. Arnold Schwarzenegger's pre- and post-election commitments to examine the size and cost of running the state; proposals by the California Performance Review to restructure, reorganize and reform state government; the impending retirement of a significant number of senior managers and supervisors in state service; and the challenge of recruiting and maintaining high-quality leaders in the face of the void being created by these retirements.

According to the Little Hoover Commission, recent reports suggest that 60 percent of the state's management workforce is eligible to retire in 2004, fueled by the "baby boomer" generation reaching minimum state retirement age.

It is clear that any proposed salary-setting system for excluded and exempt state employees must be a value-driven process that meets current and future needs of the state as employer, of excluded and exempt employees who comprise its management team, and of its citizens who pay for the programs and personnel to deliver quality services to them.

After reviewing the materials presented from numerous studies, surveys, research and analysis performed by the four study groups and numerous additional contributors, Task Force members have concluded that the current system of determining salary and benefit levels for excluded and exempt state employees clearly is not meeting the needs of the state, its leaders or its citizens. In reaching this conclusion, the Task Force identified several critical factors contributing to the overall decline in the ability of the state to recruit and retain top-caliber individuals in excluded and exempt positions, including:

In previously published studies, the Little Hoover Commission called the state's personnel system "complex and dysfunctional." This commission is currently examining the state's management workforce.

- A decline in the state's competitiveness with other public employers relative to total compensation (e.g., salaries, retirement benefit formulas, health benefit contribution rates and the erosion of specialized benefit packages, such as the state contribution to the employee's 401(k) plan).
- Inadequate salary separations – salary compaction – created by the success of rank-and-file organizations in negotiating salary increases in collective bargaining agreements.
- Statutory salary limits imposed upon key department director positions that set a ceiling against which salaries for other excluded and exempt employees collide.
- A perception among many stakeholders that salary and benefit levels are not secure under the current system, and may be reduced or eliminated at any time without due process.

The Task Force determined that each of the above factors developed over an extended time period; however, recent events – such as hiring freezes, program reductions, mandated levels of service that are unattainable with reduced staffs, and increased expectations of additional unpaid overtime – have exacerbated the problems.

During 18 months of intensive research and evaluation that was occurring simultaneously in four study groups – each focused on specific stakeholders, sources and ways of gathering and analyzing the information captured – the Task Force maintained an open mind regarding the compensation processes utilized by other government entities. Task Force members verbalized that they did not expect to find any single source that would have an ideal and complete process the state could embrace as its own.

Task Force members did anticipate, however, that there would be systems used by other public employers that could be adapted for state government or, at the very least, would contain components that could be incorporated into a new salary-setting process.

Before the Task Force could evaluate processes or systems used by other entities, it was necessary to determine the values that must be contained in any proposed process. The Task Force developed five core values and several operational objectives for each value and agreed that those values must be evident in any models, or elements of proposed models, that might be presented for consideration.

Values and operational objectives for the new process

The new salary-setting process for state excluded and exempt employees must contain the following values. It must:

Integrity

1. **Exhibit integrity and withstand scrutiny** by:
   - Being accepted and understood by the majority of excluded and exempt employees as well as the majority of other stakeholders.
   - Being transparent so that members of the public may readily review the process and the methodologies employed in its application.
   - Identifying the final authority by whom or through which salaries and benefits will be established.
   - Minimizing competition between state departments for similarly situated employees.

Reliability

2. **Provide a reliable and consistent method for setting salaries and benefits** by:
   - Relying upon data that is measurable, logical and defensible.
   - Containing provisions that establish consistent timing for application or operation of the process and implementation of its results.
   - Supporting established pay relationships within and between occupational groups within state government.
   - Providing that established levels and forms of salary and benefits may be reduced only through a defined method of due process.

Recruit and Retain

3. **Enhance the ability of the state to recruit and retain qualified excluded and exempt employees** by:
   - Creating methods to clearly differentiate compensation for excluded and exempt classifications from that of the rank-and-file classes.

- Setting salary and benefits packages that are competitive with those provided by other public and private sector employers.
- Encouraging development of new components that will comprise a total compensation package.

Flexibility

4. Provide flexibility in setting salary and benefit levels including:
- Allowing for appropriate additional adjustments to salaries or benefits at times other than the normal fiscal year cycle.
- Permitting establishment of different levels and/or forms of compensation where justified.
- Considering to what extent geographical differences should affect salaries and/or benefits.
- Recognizing the relative value of "special pay" or perquisites as components in the total compensation package.

Recognize Differences

5. Acknowledge differences among excluded and exempt employees as well as differences between excluded/exempt employees and rank-and-file employees by:
- Providing a method for considering the qualifications, skills and other attributes of occupational groups within state employment in comparison to those in the marketplace.
- Relieving and preventing salary compaction (inadequate salary separation) where appropriate.
- Acknowledging differences between management, supervisory and confidential employees.
- Considering the level of responsibility and skills exhibited by excluded and exempt employees.

Task Force identifies high-priority characteristics for the new process

Task Force members developed a list of important characteristics that the new process must contain to be effective and progressive. At the same time, results from the stakeholders survey established another list of high-priority characteristics for inclusion in the recommended process. Though developed independently, the lists are surprisingly similar. Following are those high-priority items identified by the Task Force:

- Maintain marketplace competitiveness with other like employers in terms of salaries and benefits.
- Provide for salary and benefit security (protect established salary/benefits in the future).
- Address – and relieve as appropriate – compaction between supervisory and nonsupervisory job

classifications.
- Provide compensation options different from those provided to rank-and-file employees.
- Incorporate cost-of-living adjustments (COLAs) in employee salaries.
- Incorporate geographical/regional differences in salary scheme.
- Incorporate salary ranges that are equitable across organizational and occupational groups (include internal equity parameters).

The Task Force expressed confidence that if a process could be developed that would result in competitive salaries and benefits for excluded and exempt employees, relieve compaction, and provide procedural protections for salaries and benefits once established, most other high-priority characteristics likely would be satisfied or would become less important. For example, if salaries and benefits were competitive with comparable public jurisdictions, geographic differences and COLAs likely would be incorporated or become unnecessary. Similarly, given the responses from the marketplace comparison survey, being competitive with other jurisdictions likely would relieve compaction problems. With these in mind, the Task Force determined that the first four high-priority characteristics are the most important.

In constructing its vision of the future salary-setting system, the Task Force sought to create a process that will perpetuate the strengths of the current system while overcoming its weaknesses, and incorporate the five values that are fundamental in any process to meet today's needs and those of the future. The Task Force also endeavored to establish clear measures of success that the employer, employees and the public can use to ascertain the ongoing merit of maintaining the process or the need for component adjustments.

SALARY-SETTING MODELS CONSIDERED

At the February 2004 meeting, the Task Force conducted a brainstorming session during which members identified a large number of components that might be included in a new salary-setting process. The brainstorming activity followed the Task Force's review over several months and ultimate adoption of three in-depth reports: Current System Study, Stakeholder Analysis Study and Marketplace Comparison Study. Armed with considerable information and data on the subject of salary-setting for excluded and exempt state employees prior to the exercise, a list of 55 potential components for a new process was developed by the Task Force.

Before the next Task Force meeting, the Administrative Steering Committee (ASC) evaluated the list of 55 components, combined or eliminated similar items and arranged the resulting list of 20 components into several categories. At the March 2004 meeting, Task Force members assessed and scored each item to determine the relative value of each component in comparison to the others. From that list, four models were developed which approached salary setting from different methodologies:

- Collective bargaining
- A “me-too” relationship with rank and file bargaining units
- Legislative authority driven by a benchmark survey.
- Independent salary-setting commission driven by a benchmark survey

The Task Force evaluated each model, applying numerical scores to each using eight specific criteria: the first five reflected the values adopted by the Task Force and the other three addressed issues of cost and ease of implementation. The strengths and weaknesses of each model could be clearly delineated by reviewing the scores for each criterion per model.

Evaluation Plan and tool are included with this report.

Task Force members agreed to evaluate the models with two assumptions in mind:

- The Task Force would define the term “compensation” as it will be used to draw comparisons between state employees and other employees, or between classifications/ occupational groups in state service if the model adopted requires such comparisons, and
- The Task Force would propose a method to address and prevent “salary compaction,” especially between rank-and-file and supervisory employees, in conjunction with the model that is adopted.

Adoption of these assumptions permitted the Task Force to evaluate the models without having to first resolve these issues, though the members agreed these issues would need to be addressed before a new process could be implemented.

Of the four models developed, the independent salary-setting commission is by far the strongest in adhering to the criteria set forth by the Task Force for meeting current and future needs of the state’s management team.

Independent salary-setting commission:
The commission model scored the highest overall in the evaluation process, receiving especially high scores in the areas of integrity/scrutiny, reliability/consistency, and acknowledging differences between employees. In their discussions, Task Force members expressed a belief that a commission that was independent from other government functions would be able to objectively evaluate the comparative data obtained through the benchmark survey and focus on making legitimate recommendations.

The commission model far outscored all other models.

Task Force members struggled with the scope of authority the commission should have in setting salary and benefit levels especially regarding funding authority. One model discussed would have given complete authority to the commission; however, the Task Force decided that the legislative branch would be the ultimate funding authority while the governor would have a role in proposing funding limits or augmentation. In light of those considerations, the Task Force concluded that an advisory commission whose role would be to make salary and benefit recommendations to the Legislature and governor would have a higher likelihood of acceptance and, therefore, adoption by those entities.

The Task Force noted that this model scored lower than any other in the area of flexibility. Given the complexity and dynamic nature of the compensation programs in state government, there was concern as to how immediate needs such as establishing salaries for a newly created class or implementing a recruitment differential in response to a critical hiring need might be accomplished by a commission that would likely meet only periodically. The Task Force decided this issue could be addressed by maintaining responsibility for making such day-to-day decisions with the salary-administering authority within the executive branch, whomever that may be following proposals by the California Performance Review (CPR). The Task Force concluded that under a commission model, changes made by the governor during the year would need to be reported to the commission so its members might incorporate any adopted changes into their recommendations for the following year.

Collective bargaining:
Collective bargaining was dismissed by consensus as not being a viable alternative. Scores for this model indicated it could be expected to be the poorest in meeting the values deemed vital by the Task Force. In reaching this conclusion, Task Force members pointed to a number of factors:

- A perception that the governor and Legislature are currently

dissatisfied with aspects of the collective bargaining process for rank-and-file employees and unlikely to extend the process for excluded and exempt employees at this time
- Designation of appropriate bargaining units would be a divisive, cumbersome and expensive process that might delay implementation of a new process for several years
- The potential for disagreement between various stakeholders and the uncertainty of how the Public Employment Relations Board would approach unit determination
- The ability of local government jurisdictions to collectively bargain both supervisory and managerial contracts under the Meyers-Milias-Brown Act was attributed to the efficiencies of smaller size and geographical proximity that would not be evident in state excluded or exempt units.

Me too:
The “Me too” model scored the highest in two criteria: ease of implementation and for being the lowest cost model. Task Force members reasoned that because rank-and-file collective bargaining was already in place and excluded and exempt employees were already aligned occupationally with related bargaining units, little if any resources would be necessary to implement this model.

In their discussion, several members indicated that their perceptions that secrecy surrounds the collective bargaining process might have jaundiced their evaluations of the “Me too” model, especially with regard to the first criterion. Furthermore, members were undecided whether strict bargaining unit associations should be established in such a model or if a “favored nations” approach should be used, whereby excluded and exempt employees would receive the best compensation elements aggregated from the signed collective bargaining agreements, an average of those elements, or some other application of rank-and-file compensation. Members expressed concerns that a conflict might arise in determining which bargaining unit(s) would be used to most appropriately align various classifications.

Legislative process:
During discussion, Task Force members revealed they scored this model lower in the first three criteria because they anticipated significant political influence in that forum. They also expressed concern that the Legislature’s responsibility to address a broader spectrum of timely issues would interfere with objective evaluation of the benchmark survey data and resultant salary-setting recommendations.

Specifically, Task Force members wanted to ensure that recommendations were made based upon comparative data collected in the survey and not on the give and take of budget negotiations. Members expressed a desire to have the recommendations be objective and based upon quantitative data even if the Legislature, through the budget process, decided they could not or would not fund the recommendations in their entirety. Members expressed concern that the process leading to decisions about salaries and benefits would become incorporated into the budget negotiations and, therefore, might not be as open or publicly accessible as that of an advisory salary-setting commission.

Other alternatives discussed

Task Force members did not score the following alternatives; however, they discussed at length the advantages and disavantages of both.

Two alternatives were not scored by Task Force members, though their strengths and weaknesses were fully discussed.

<u>Status quo:</u>
Models that would maintain the status quo or formalize principles and practices that have been employed by DPA in the past were not developed by the Administrative Steering Committee or evaluated by the Task Force. Also, Task Force members did not directly engage in discussions about such alternatives.

From the outset, however, Task Force members vocalized their perceptions that the current method or process for setting salary and benefit levels for excluded and exempt state employees was not working for stakeholders and needed to be changed. Criticism of the current process was woven into discussions as the Task Force developed its values statement. Evaluation of stakeholder input reinforced Task Force members' perceptions regarding the inadequacy of the current system.

<u>Expanding the role of DPA:</u>
Task Force members readily acknowledged that DPA's staff and documentary resources could and should be utilized by the proposed salary-setting commission in the preparation, distribution and collection of benchmark surveys and in preparing recommendations by the advisory commission. However, expanding the role and activities of DPA in determining salary and benefit levels for excluded and exempt state employees was not viewed as a viable option.

Task Force members and stakeholders expressed a lack of confidence in DPA's ability and willingness under prior administrations to change the current system, noted recent criticism levied against DPA in legislative committee hearings, and discussed persistent rumors that the administration – as a result of impending recommendations by the California Performance Review – plans to shift responsibilities away from DPA in the coming months.

THE RECOMMENDED PROCESS

The State Excluded and Exempt Employees Salary-setting Task Force concludes that the current salary-setting process is so seriously flawed that it lacks integrity, is not predictable, not routine, not consistent, not transparent, not reproducible and not reliable, and is impeding the state's ability to ensure continuity of service to the public through the maintenance of an adequately trained, adequately compensated and highly motivated managerial workforce.

The Task Force is recommending a salary-setting process that embraces the values and operational objectives that form the foundation for a system that meets the needs of state government, its managerial and supervisorial employees, its citizens and, ultimately, its future.

Independent advisory commission

The recommended proposal: an independent, objective, seven-member advisory commission

The Task Force is proposing an objective seven-member advisory commission, independent from other government functions, empowered with authority to recommend levels of salaries and benefits for excluded and exempt employees in state service. The commission would conduct its business in publicly noticed meetings – a minimum of two public meetings each year, one held in Northern California and one held in Southern California – would use specific data to generate its annual recommendations, and would consider the broad impact of those recommendations.

Each excluded and exempt classification would be tied to a benchmark classification, and the comparison for the benchmark would be employed as the relative comparison for the classes tied to the benchmark. A survey of benchmark classifications would be conducted on a scheduled basis to determine how state compensation for excluded and exempt employees compares to the other surveyed public employers. The commission's administrative staff would be responsible for conducting the survey, evaluating the survey results and presenting the information to the commission in a public forum.

The commission would use the following factors in preparing its recommendations:

- Evaluation of survey results
- Cost of living indicators
- Regional or other geographical considerations
- Rank-and-file employee compensation
- Compensation paid to comparable occupations or benchmark classes in California cities, counties and special districts, the University of California and California State University systems, the federal government and the private sector
- Excluded employees' salaries, benefits and other compensation items and factors affecting these items
- History of excluded employee salary and benefit changes
- Timing of the change in the compensation process
- Specific recruitment needs of the state
- Market vagaries.

Affected employees, excluded employee organizations, state departments and agencies, and members of the public would be permitted to make presentations before the commission prior to adoption, publication and presentation of its recommendations to the Legislature and the governor. Cost estimates of implementing the recommendations also would be included in the written recommendation document.

The process would be applied to all excluded and exempt employees referenced in Government Code Section 3527 and subdivisions e), f) or g), Section 4, Article VII of the California Constitution. The commission, at its discretion, may recommend a separate process, or distinct salary and benefit provisions, for excluded and exempt employees who are not designated supervisory or managerial.

Commission membership and terms

Commission members:
- *three from the general public*
- *two from excluded employee organizations*
- *two from state agencies*

Three commission members who have experience in compensation, personnel, salary determinations or similar areas of expertise would be appointed from the general public. No member may be currently employed by the State of California or an organization representing state employees. One member each would be appointed by:

- The Governor
- President pro Tempore of the Senate
- Speaker of the Assembly

Two commission members would be appointed from officers or representatives of state-registered excluded employee representative organizations. One member each would be appointed by:

- President pro Tempore of the Senate
- Speaker of the Assembly

Two commission members would be representatives of state agencies or departments, such as the state controller or director of the Department of Finance, and would be appointed by the governor.

Commission members would be appointed for six-year terms, except initially two members would be appointed for a two-year term, two others for a four-year term and three others for a six-year term to ensure continuity of membership during changes in administration. The seven-member commission would elect a chairperson, whose term of office would be two years.

A separate budget, developed and administered by DPA, would need to be established to finance any and all costs associated with the salary-setting commission.

Compensation and expenses for commission members

The three commission members appointed from the public would receive reimbursement from the state for actual and necessary expenses incurred.

The two commission members appointed as representatives from excluded and exempt employee organizations would be reimbursed by their respective organizations for actual and necessary expenses incurred.

The two commission members representing state agencies would be reimbursed by their respective state agencies for actual and necessary expenses incurred.

Implementing the process recommended by the salary-setting commission

The commission would simultaneously deliver its recommendations to appropriate committees of the Legislature and to the Governor on a specified schedule of frequency. If the Legislature elects not to fully fund the recommendations, they would be returned to the commission for reconsideration and/or modification. The commission would then provide guidance on priorities and implementation alternatives after holding at least one open meeting during which the public or other interested parties would have the opportunity to make presentations.

In the event of a proposal to reduce any compensation for excluded or exempt employees, the proposal would be provided to the commission, which would then hold a noticed public hearing allowing input from the public and interested parties prior to implementation by the administration's authority.

Seeking balance

Since its first meeting in early 2003, the Task Force has focused its efforts on creating a value-based salary-setting process that recognizes and balances the current and future needs of the employer, excluded and exempt employees, and the public. After weighing many components and evaluating numerous models, the Task Force's recommendation of a seven-member advisory commission clearly meets the criteria and the objective set forth in AB 2477, which states that the Task Force must " ... recommend to the Governor and the Legislature a process that can identify and implement equitable salary and benefit changes over time for excluded and exempt positions in state government."

In passing AB 2477, the Legislature felt change was needed. In signing AB 2477, the Governor confirmed that change was needed. And in recommending the salary-setting commission, the Task Force has responded and fulfilled its mission to create a new process to implement that change.

In the current environment of budget constraints, shrinking resources and fiscal uncertainties, it is essential that the State of California maintain a qualified, motivated and adequately compensated management team. Implementing this recommended salary-setting commission will bring the necessary balance back into state government so it can continue to serve the citizens of this great state.

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Jim Drysdale
Manager
Administration and Leadership School,
EDD University

Rick Field
Supervisory Director
California Association of Highway Patrolmen

Robert Dean
Supervisory Vice President
California Correctional Peace Officers Association

Gerald H. Goldberg
Executive Officer
Franchise Tax Board

Tony V. Harris
Acting Director
California Department of Transportation

Tony Hosino
Vice President
California Association of Managers and Supervisors

Ernest VanSant
Chief Deputy Director, Support Services
Department of Corrections

Jacqueline Wilson
Deputy Director
Department of General Services

On behalf of the State Excluded and Exempt Salary-setting Task Force, we submit this report to Governor Arnold Schwarzenegger and members of the Legislature.

Diane Just, ***Chairperson***

Larry Svetich, ***Vice Chairperson***

Date: June 29, 2004

Excluded and Exempt Employees
Salary-setting Task Force Members

On behalf of the State Excluded and Exempt Salary-setting Task Force, we submit this report to Governor Arnold Schwarzenegger and members of the Legislature.

Diane Just, ***Chairperson***
Deputy Director
Department of Personnel Administration

Larry Svetich, ***Vice Chairperson***
Department of Transportation Supervisors, and
Corrections Ancillary Staff Supervisors Organization

Cathrina Barros
Vice President Supervisory
Professional Engineers in California Government

Gerald H. Goldberg
Executive Officer
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Tim Behrens
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Association of California State Supervisors

Tony V. Harris
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Date: June 29, 2004